

PETROVEST, INC.

IBLA 85-121

Decided August 19, 1985

Appeal from a decision of the Eastern States Office, Bureau of Land Management, rejecting competitive oil and gas lease offer ES-30728.

Affirmed.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

Where a decision to reject a competitive oil and gas lease sale high bid has been made in a careful and systematic manner utilizing the advice of Departmental experts and the record discloses a rational basis for the conclusion that the bid is inadequate, such a decision will not be overturned on appeal.

APPEARANCES: George S. Haymans III, Natchez, Mississippi, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Petrovest, Inc., has appealed from a September 27, 1984, decision of the Eastern States Office, Bureau of Land Management (BLM), again rejecting Petrovest's high bid of \$ 524 (\$ 13.10 per acre) for parcel 3 at the competitive sale held on January 28, 1982.

BLM originally rejected appellant's bid by decision dated July 26, 1982. Petrovest appealed that decision, and in Petrovest, Inc., 71 IBLA 250 (1983), the Board set aside that decision and remanded the case for readjudication because it was unable to evaluate the correctness of the BLM decision or the merits of Petrovest's arguments on the basis of the record before it.

On remand BLM prepared a report entitled "Fair Market Value Appraisal Tract No. 3 of the January 28, 1982, Competitive Oil and Gas Lease Sale." A copy of that report accompanied BLM's September 27, 1984, decision.

In this appeal Petrovest does not directly attack BLM's appraisal report except to claim that it "has no effect on this lease because it is already spaced out of the producing unit." Petrovest asserts the appraisal is invalid because a property may not be evaluated for a purpose for which it cannot be used.

Petrovest has failed to show error in the BLM decision. The appraisal report discloses that BLM used both an income approach and a comparable sales approach to derive the fair market value of parcel 3, with comparable sales reinforcing the results of the income approach. The fair market value is also set forth in the report. The report further addresses questions previously raised by Petrovest. With regard to the effect of "spacing out" on the value of this lease, the only argument specifically raised by appellant in this appeal, 1/ the report states in its addendum:

1. The subject tract has been "spaced out" of a State of Arkansas drilling unit. This situation presents the eventual lessee with two options: first, petition the State of Arkansas Oil and Gas Commission to be allowed back into the unit; second, the lessee may drill a well on the property because the State of Arkansas does not have any authority over Federal minerals. The Federal Government can establish its own drilling unit and set its own allowables. Thus, the "spacing-out" has no effect on the value of the oil and gas reserves of the Federal tract.

Appellant does not address this response by BLM, but merely asserts that "spacing out" adversely affects the value of the parcel. Appellant provides no support for its argument. We reject it.

[1] We find that the appraisal report provides a rational basis for BLM's decision in this case. Appellant has been given a reasoned and factual explanation for the rejection of its bid. BLM's decision will not be overturned. Even if we were to assume that appellant had established some error in BLM's decision, it could not prevail since it has failed to meet its affirmative obligation to establish that its bid is a reasonable reflection of fair market value. Viking Resources, Corp., 80 IBLA 245 (1984).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

Gail M. Frazier
Administrative Judge

1/ Petrovest does state generally that it is appealing "for reasons previously submitted." The reasons "previously submitted" were addressed by BLM in its evaluation. Absent an explicit assignment of error in BLM's evaluation, we find appellant's generalized reference insufficient to establish error.

